



National Transportation Safety Board

Washington, D.C. 20594

JUN 09 2006

Office of the Chairman

Mr. Brigham A. McCown
Acting Administrator
Pipeline and Hazardous Materials
Safety Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Mr. McCown:

Thank you for your November 16, 2005, response to the National Transportation Safety Board regarding Safety Recommendation R-04-10, stated below. This recommendation was issued to the Research and Special Programs Administration (now the Pipeline and Hazardous Materials Safety Administration [PHMSA]) on December 15, 2004, as a result of the Safety Board's investigation of a railroad tank car rupture involving hazardous waste near Freeport, Texas, on September 13, 2002.

R-04-10

In cooperation with the Occupational Safety and Health Administration [OSHA] and the Environmental Protection Agency [EPA], develop regulations that require safe operating procedures to be established before hazardous materials are heated in a railroad tank car for unloading; at a minimum, the procedures should include the monitoring of internal tank pressure and cargo temperature.

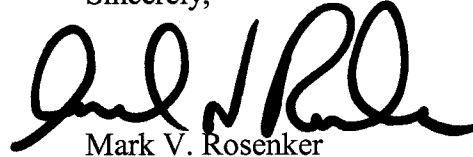
The Safety Board notes that representatives from PHMSA, the EPA, the Federal Railroad Administration, and OSHA have held discussions concerning procedures to minimize the risks associated with the heating of hazardous materials, including hazardous wastes, prior to their unloading from railroad tank cars. The representatives concluded that the most appropriate way to proceed is to jointly issue a safety advisory (SA) rather than to promulgate regulations. The SA will address the monitoring of several factors to avoid over-pressurization: heat applied to the tank car for unloading, cargo temperature, internal pressure of the tank car, and other provisions. The Board understands that a draft of this SA is currently under review by PHMSA, OSHA, and the EPA.

The Safety Board recognizes that an SA can be issued more quickly than regulations, and therefore would disseminate important safety information in a timelier manner. The Board considers the publication of an SA to be a positive but *interim* measure to address this safety issue. An SA will not require operators of facilities where railroad tank cars are offloaded to implement effective procedures for safely heating hazardous materials prior to offloading, nor will it assign specific oversight responsibilities to a particular Federal agency. To ensure that effective standards

are implemented and effective oversight is established, the Board believes that regulations or their equivalent are necessary to complete action on this recommendation.

Accordingly, Safety Recommendation R-04-10 is classified "Open—Unacceptable Response" until regulations implementing safe and effective operating procedures are issued. We look forward to receiving updates as PHMSA, OSHA, and the EPA make further progress to address this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark V. Rosenker", written in a cursive style.

Mark V. Rosenker
Acting Chairman